

## SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

EDITORIAL NOTE: For FEDERAL REGISTER citations to regulations for previous program years not included in this volume, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### PART 1410—CONSERVATION RESERVE PROGRAM

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AUTHORITY: 15 U.S.C. 714b and 714c; 16 U.S.C. 3801–3847.

SOURCE: 62 FR 7625, Feb. 19, 1997, unless otherwise noted.

#### § 1410.1 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Executive Vice President, Commodity Credit Corporation (CCC), and the Administrator, Farm Service Agency (FSA), through the Deputy Administrator. In the field, the regulations in this part will be administered by the State and county FSA committees (“State committees” and “county committees,” respectively).

(b) State executive directors, county executive directors, and State and county committees do not have the authority to modify or waive any of the provisions in this part unless specifically authorized by the Deputy Administrator.

(c) The State committee may take any action authorized or required by this part to be taken by the county committee which has not been taken by such committee, such as:

(1) Correct or require a county committee to correct any action taken by such county committee which is not in accordance with this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, the Administrator, FSA, or a designee, or the Deputy Administrator from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee.

(e) Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, the failure to

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provide data could result in program benefits being withheld or denied.

(f) Notwithstanding other provisions of the preceding paragraphs of this section, the EI, suitability of land for permanent vegetative or water cover, factors for determining the likelihood of improved water quality and adequacy of the planned practice to achieve desired objectives shall be determined by the Natural Resource Conservation Service (NRCS) or any other non-USDA source approved by NRCS, in accordance with the Field Office Technical Guide of NRCS or other guidelines deemed appropriate by the NRCS, except that no such determination by NRCS shall compel CCC to execute a contract which CCC does not believe will serve the purposes of the program established by this part.

(g) State committees, with NRCS, may develop a State evaluation process to rank acreage based on State-specific goals and objectives where such an evaluation process would further the goals of CRP. Such State committees may choose between developing a State ranking system or using the national ranking system. States' ranking processes shall be developed based on recommendations from State Technical Committees, follow national guidelines, and be approved by the Deputy Administrator.

(h) CCC may consult with the Forest Service (FS), a State forestry agency, or other organization for such assistance as is determined by CCC to be necessary for developing and implementing conservation plans which include tree planting as the appropriate practice or as a component of a practice.

(i) CCC may consult with the Cooperative State Research, Education, and Extension Service to coordinate a related information and education program as deemed appropriate to implement the Conservation Reserve Program (CRP).

(j) CCC may consult with the U.S. Fish and Wildlife Service (FWS) or State wildlife agencies for such assistance as is determined necessary by CCC to implement the CRP.

(k) The regulations governing the CRP as of February 11, 1997, shall continue to be applicable to contracts in

effect as of that date. The regulations set forth in this part as of February 12, 1997, shall be applicable to contracts executed on or after that date.

### § 1410.2 Definitions.

The following definitions shall be applicable to this part:

*Agricultural commodity* means any crop planted and produced by annual tilling of the soil or on an annual basis by one-trip planters or sugar cane planted or produced in a State or alfalfa and other multi year grasses and legumes in rotation as approved by the Secretary. For purposes of determining crop history, as relevant to eligibility to enroll land in the program, land shall be considered planted to an agricultural commodity during a crop year if, as determined by CCC, an action of the Secretary prevented land from being planted to the commodity during the crop year.

*Alley-cropping* means the practice of planting rows of trees surrounded by a strip of vegetative cover, alternated with wider strips of agricultural commodities planted in accordance with a conservation plan approved by the local conservation district and CCC.

*Allotment* means an acreage for a commodity allocated to a farm in accordance with the Agricultural Adjustment Act of 1938, as amended.

*Alternative perennials* means woody species of plants grown on certain CRP acres, including, but not limited to shrubs, bushes, and vines.

*Annual rental payment* means, unless the context indicates otherwise, the annual payment specified in the CRP contract which, subject to the availability of funds, is made to a participant to compensate such participant for placing eligible land in the CRP.

*Applicant* means a person who submits an offer to CCC to enter into a CRP contract.

*Arid area* means acreage located west of the 100th meridian that receives less than 25 inches of average annual precipitation.

*Bid or offer* means, unless the context indicates otherwise, if required by CCC, the per-acre rental payment requested by the owner or operator in such owner's or operator's request to participate in the CRP.

*Conservation district* means a political subdivision of a State, Native American Tribe, or territory, organized pursuant to the State or territorial soil conservation district law, or Tribal law. The subdivision may be a conservation district, soil conservation district, soil and water conservation district, resource conservation district, natural resource district, land conservation committee, or similar legally constituted body.

*Conservation plan* means a record of the participant's decisions, and supporting information, for treatment of a unit of land or water, and includes a schedule of operations, activities, and estimated expenditures needed to solve identified natural resource problems by devoting eligible land to permanent vegetative cover, trees, water, or other comparable measures.

*Conservation priority area* means areas so designated by the Deputy Administrator with actual and adverse water quality or habitat impacts related to agricultural production activities or to assist agricultural producers to comply with Federal and State environmental laws and to meet other conservation needs, such as for air quality, as determined by the Deputy Administrator.

*Contour grass strip* means a vegetation area that follows the contour of the land, the width of which is determined using the appropriate FOTG and which is so designated by a conservation plan developed under this part.

*Contract period* means the term of the contract which shall be not less than 10, nor more than 15, years.

*Cost-share payment* means the payment made by CCC to assist program participants in establishing the practices required in a contract.

*Cropland* means land defined as cropland in accordance with the provisions of part 718 of this title, except for land in terraces that are no longer capable of being cropped.

*Cropped wetlands* means farmed wetlands and wetlands farmed under natural conditions.

*Deputy Administrator* means the Deputy Administrator for Farm Programs, FSA, or a designee.

*Environmental Quality Incentives Program (EQIP)* means the program authorized by the Food Security Act of

1985, as amended, in which eligible persons enter into contracts with CCC to address threats to soil, water, and related natural resources and for other purposes.

*Erodibility index (EI)* means the factor, as calculated by NRCS, used to determine the inherent erodibility of a soil by dividing the potential average annual rate of erosion without management for each soil by the predetermined T value for the soil.

*Farmed wetlands* means land defined as farmed wetlands in accordance with the provisions of part 12 of this title.

*Federally owned land* means land owned by the Federal Government or any department, instrumentality, bureau, or agency thereof, or any corporation whose stock is wholly owned by the Federal Government.

*Field* means a part of a farm which is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, woodlands, other similar features, or croplines, as determined by CCC.

*Field Office Technical Guide (FOTG)* means the official NRCS guidelines, criteria, and standards for planning and applying conservation treatments and conservation management systems. It contains detailed information on the conservation of soil, water, air, plant, and animal resources applicable to the local area for which it is prepared.

*Field windbreak, shelterbelt, and living snowfence* mean a vegetative barrier with a linear configuration composed of trees, shrubs, or other vegetation, as determined by CCC, which are designated as such practices in a conservation plan and which are planted for the purpose of reducing wind erosion, snow control, wildlife habitat, and energy conservation.

*Filter strip* means a strip or area of vegetation the purpose of which is to remove nutrients, sediment, organic matter, pesticides, and other pollutants from surface runoff and subsurface flow by deposition, absorption, plant uptake, and other processes, thereby reducing pollution and protecting surface water and subsurface water quality and of a width determined appropriate for the purpose by the applicable FOTG.

*Highly erodible land (HEL)* means that land determined to be HEL in accordance with the provisions of part 12 of this title.

*Landlord* means a person who rents or leases acreage to another person.

*Local FSA office* means the FSA office serving the area in which the FSA records are located for the farm or ranch.

*Operator* means a person who is in general control of the farming operation on the farm, as determined by CCC.

*Owner* means a person or entity who is determined by FSA to have sufficient legal ownership of the land, including a person who is buying the acreage under a purchase agreement; each spouse in a community property State; each spouse when spouses own property jointly and a person who has life-estate in a property.

*Participant* means an owner or operator or tenant who has entered into a contract.

*Payment period* means the 10- to 15-year contract period for which the participant receives an annual rental payment.

*Permanent vegetative cover* means perennial stands of approved combinations of certain grasses, legumes, forbs, and shrubs with a life span of 10 or more years, or trees.

*Permanent wildlife habitat* means a permanent vegetative cover with the specific purpose of providing habitat, food, or cover for wildlife and protecting other environmental concerns.

*Practice* means a conservation, wildlife habitat, or water quality measure with appropriate operations and management as agreed to in the conservation plan to accomplish the desired program objectives according to CRP and NRCS standards and specifications as a part of a conservation management system.

*Predominantly highly erodible field* means that land defined has a predominantly highly field in accordance with the provisions of part 12 of this title.

*Quota* means the pounds of tobacco or peanuts or other commodity allocated to a farm for commodity support purposes or control pursuant to the terms of the Agricultural Adjustment Act of 1938, as amended.

*Riparian buffer* means a strip or area of vegetation of a width determined appropriate by the applicable FOTG the purpose of which is to remove nutrients, sediment, organic matter, pesticides, and other pollutants from surface runoff and subsurface flow by deposition, absorption, plant uptake, and other processes, thereby reducing pollution and protecting surface water and subsurface water quality which are also intended to provide shade to reduce water temperature for improved habitat for aquatic organisms and supply large woody debris for aquatic organisms and habitat for wildlife.

*Soil loss tolerance (T)* means the maximum average annual erosion rate specified in the FOTG that will not adversely impact the long term productivity of the soil.

*State Technical Committee* means that committee established pursuant to 16 U.S.C. 3861 to provide information, analysis, and recommendations to the U.S. Department of Agriculture.

*State water quality priority areas* means any area so designated by the State committee and NRCS, in consultation with the State Technical Committee where agricultural nonpoint source pollutants or agricultural point source pollutants contribute or create the potential for failure to meet applicable water quality standards or the goals and requirements of Federal or State water quality laws. These areas may include areas designated under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) as water quality protection areas, sole source aquifers or other designated areas that result from agricultural nonpoint sources of pollution. Acreage in these areas may be determined eligible as conservation priority areas.

*Technical assistance* means the assistance provided in connection with the CRP to owners or operators by NRCS, FS, or another source as approved by the NRCS or FS, as appropriate, in classifying cropland, developing conservation plans, determining the eligibility of land, and implementing and certifying practices, and forestry issues.

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*Violation* means an act by the participant, either intentional or unintentional, which would cause the participant to no longer be eligible for cost-share or annual contract payments.

*Water bank program (WBP)* means the program authorized by the Water Bank Act of 1970, as amended, in which eligible persons enter into 10-year agreements to preserve, restore, and improve wetlands.

*Water cover* means flooding of land by water either to develop or restore shallow water areas for wildlife or wetlands, or as a result of a natural disaster.

*Wellhead protection area* means the area designated by the appropriate State agency with an Environmental Protection Agency approved Wellhead Protection Program for water being drawn for public use, as defined for public use by the Safe Drinking Water Act, as amended.

*Wetland* means land defined as wetland in accordance with provisions of part 12 of this title.

*Wetlands farmed under natural conditions* means land defined as wetlands farmed under natural conditions in accordance with provisions of part 12 of this title.

*Wetlands Reserve Program (WRP)* means the program authorized by the Food Security Act of 1985, as amended, in which eligible persons enter into long-term agreements to restore and protect wetlands.

[62 FR 7625, Feb. 19, 1997, as amended at 67 FR 2132, Jan. 16, 2002]

#### § 1410.3 General description.

(a) Under the CRP, CCC will enter into contracts with eligible participants to convert eligible land to a conserving use for a period of time of not less than 10 nor more than 15 years in return for financial and technical assistance.

(b) A conservation plan for eligible acreage must be obtained by a participant which must be approved by the conservation district in which the lands are located unless the conservation district declines to review the plan in which case NRCS may take such further action as is needed to account for lack of such review.

(c) The objectives of the CRP are to cost-effectively reduce water and wind erosion, protect the Nation's long-term capability to produce food and fiber, reduce sedimentation, improve water quality, create and enhance wildlife habitat, and other objectives including encouraging more permanent conservation practices and tree planting.

(d) Except as otherwise provided, a participant may, in addition to any payment under this part, receive cost-share assistance, rental or easement payments, or tax benefits from a State, subdivision of such State, or a private organization in return for enrolling lands in CRP. However, a participant may not receive or retain CRP cost-share assistance if other Federal cost-share assistance is provided for such acreage under any other provision of law, as determined by the Deputy Administrator. Further, under no circumstances may the cost-share payments received under this part, or otherwise, exceed the cost of the practice, as determined by CCC.

#### § 1410.4 Maximum county acreage.

The maximum acreage which may be placed in the CRP and the WRP may not exceed 25 percent of the total cropland in the county of which no more than 10 percent of the cropland in the county may be subject, in the aggregate, to a CRP or WRP easement, unless CCC determines that such action would not adversely affect the local economy of the county. This restriction on participation shall be in addition to any other restriction imposed by law.

#### § 1410.5 Eligible persons.

(a) In order to be eligible to enter into a CRP contract in accordance with this part, a person must be an owner, operator, or tenant of eligible land and:

(1) If an operator of eligible land, seeking to participate without the owner, must have operated such land for at least 12 months prior to the close of the applicable signup period and must provide satisfactory evidence that such operator will be in control of such eligible land for the full term of the CRP contract period;

(2) If an owner of eligible land, must have owned such land for at least 12

months prior to the close of the applicable signup period, unless:

(i) The new owner acquired such land by will or succession as a result of the death of the previous owner;

(ii) The only ownership change in the 12 month period occurred due to foreclosure on the land and the owner of the land, immediately before the foreclosure, exercises a timely right of redemption from the mortgage holder in accordance with State law;

(iii) As determined by the Deputy Administrator, the circumstances of the acquisition are such that present adequate assurance that the new owner of such eligible land did not acquire such land for the purpose of placing it in the CRP; or

(3) If a tenant, the tenant is a participant with an eligible owner or operator.

(b) Notwithstanding paragraph (a) of this section, under continuous signup provisions authorized by §1410.30, an otherwise eligible person must have owned or operated, as appropriate, the eligible land for at least 12 months prior to submission of an offer.

#### § 1410.6 Eligible land.

(a) In order to be eligible to be placed in the CRP, land:

(1) Must be cropland that:

(i) Has been annually planted or considered planted to an agricultural commodity in 2 of the 5 most recent crop years, as determined by the Deputy Administrator, provided further that field margins which are incidental to the planting of crops may also be considered qualifying cropland to the extent determined appropriate by the Deputy Administrator; and

(ii) Is physically and legally capable of being planted in a normal manner to an agricultural commodity, as determined by the Deputy Administrator.

(2) Must be marginal pasture land, as determined by the Deputy Administrator, that:

(i) Is enrolled or has recently been enrolled in the WBP provided:

(A) The acreage is in the final year of the WBP agreement or, if not in the final year of the WBP agreement and only for enrollments in the CRP for FY 1997, is acreage for which the WBP agreement expired on December 31,

1996, where the land would be considered in compliance if such agreement was still in effect, as determined by the Deputy Administrator;

(B) The acreage is not classified as naturally occurring type 3 through 7 wetlands, as determined by the Deputy Administrator regardless of whether the acreage is or is not protected by a Federal agency easement or mortgage restriction (types 3 through 7 wetlands that are normally artificially flooded shall not be precluded from eligibility), and;

(C) Enrollment in CRP would enhance the environmental benefits of the site, as determined by Deputy Administrator; or

(ii) Is determined to be suitable for use as a riparian buffer. A field or portion of a field of marginal pasture land may be considered to be suitable for use as a riparian buffer only if, as determined by NRCS, it:

(A) Is located adjacent to permanent stream corridors excluding corridors that are considered gullies or sod waterways; and

(B) Is capable, when permanent grass, forbs, shrubs or trees are grown, of substantially reducing sediment that otherwise would be delivered to the adjacent stream or waterbody; or

(3) Must be acreage currently enrolled in the CRP provided the scheduled expiration date of the current CRP contract is to occur before the available effective date of a new CRP contract, as determined by the Deputy Administrator, provided the acreage is otherwise eligible according to this part, as determined by the Deputy Administrator.

(b) Any land qualifying under the provisions of paragraph (a)(1) must also, to be eligible for a contract:

(1) Be a field or portion of a field determined to be suitable for use as a permanent wildlife habitat, filter strip, riparian buffer, contour grass strip, grass waterway, field windbreak, shelterbelt, living snowfence, other uses as may be determined by the Deputy Administrator, vegetation on salinity producing areas, including any applicable recharge area, or any area determined eligible for CRP based on wetland or wellhead protection area criteria to be eligible to be placed in

the CRP. A field or portion of a field may be considered to be suitable for use as a filter strip or riparian buffer only if it, as determined by NRCS:

(i) Is located adjacent to a stream, other waterbody of a permanent nature (such as a lake, pond, or sinkhole), or wetland excluding such areas as gullies or sod waterways; and

(ii) Is capable, when permanent grass, forbs, shrubs or trees are grown, of substantially reducing sediment that otherwise would be delivered to the adjacent stream or waterbody; or

(2)(i) Be a field which has evidence of scour erosion caused by out-of-bank flows of water, as determined by NRCS. In addition such land must:

(A) Be expected to flood a minimum of once every 10 years; and

(B) Have evidence of scour erosion as a result of such flooding.

(ii) To the extent practicable, be the actual affected cropland areas of a field; however, the entire cropland area of an eligible field may be enrolled if:

(A) The size of the field is 9 acres or less; or

(B) More than one third of the cropland in the field is land which lies between the water source and the inland limit of the scour erosion.

(iii) If the full field is not eligible for enrollment under this paragraph (b)(2), be that portion of the cropland between the waterbody and the inland limit of the scour erosion together with, as determined by the Deputy Administrator, additional areas which would otherwise be unmanageable and would be isolated by the eligible areas.

(iv) Be planted to an appropriate tree species according to the FOTG, unless tree planting is determined to be inappropriate by NRCS, in consultation with Forest Service, in which case the eligible cropland shall be devoted to another acceptable permanent vegetative cover in accordance with the FOTG; or

(3) Be contributing to the degradation of water quality or posing an on-site or off-site environmental threat to water quality if such land remains in production so long as water quality objectives, with respect to such land, cannot be obtained under other Federal programs, including but not limited to

EQIP authorized under part 1466 of this chapter; or

(4) Be devoted to certain covers, as determined by the Deputy Administrator, which are established and maintained according to the FOTG provided such acreage is not required to be maintained as such under any life-span obligations, as determined by the Deputy Administrator; or

(5) Be non-irrigated or irrigated cropland which produces or serves as the recharge area, as determined by the Deputy Administrator, for saline seeps, or acreage which is functionally related to such saline seeps, or where a rising water table contributes to increased levels of salinity at or near the ground surface; or

(6) Be considered HEL according to conservation compliance provisions under part 12 of this chapter; or

(7) For redefined fields, have an EI of greater than or equal to 8, calculated by using the weighted average of the EI's of soil map units within the field; or

(8) Be within a public wellhead protection area or in an approved Hydrologic Unit Area; or

(9) Be within a designated conservation priority area; or

(10) Be designated as a cropped wetland and appropriate associated acreage, as determined by the Deputy Administrator; or

(11) Be cropland which, as determined by the Deputy Administrator, is associated with noncropped wetlands and would provide significant environmental benefits; or

(c) Notwithstanding paragraphs (a) and (b) of this section, land shall be ineligible for enrollment if, as determined by the Deputy Administrator, land is:

(1) Federally owned land unless the applicant has a lease for the contract period;

(2) Land on which the use of the land is restricted through deed or other restriction prior to enrollment in CRP prohibiting the production of agricultural commodities except for eligible land under paragraph (a)(2) of this section; or

(3) Land already enrolled in the CRP unless the scheduled expiration date of the current contract is to occur before

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the available effective date of a new CRP contract, as determined by the Deputy Administrator.

### § 1410.7 Duration of contracts.

(a) Except as provided in paragraph (b) of this section, contracts under this part shall be for a term of 10 years.

(b) In the case of land devoted to riparian buffers, filter strips, restoration of wetlands, hardwood trees, shelterbelts, windbreaks, wildlife corridors, or other practices deemed appropriate by CCC under the original terms of a contract subject to this part or for land devoted to eligible practices under a contract modified under § 1410.10, the participant may specify the duration of the contract provided that such contracts must be at least 10 years and no more than a total of 15 years in length.

(c) All contracts shall expire on September 30 of the appropriate year.

### § 1410.8 Conservation priority areas.

(a) CCC may designate National conservation priority areas according to paragraph (c) of this section.

(b) State FSA committees, in consultation with NRCS and State Technical Committees, may submit a recommendation to the Deputy Administrator within guidelines established by the Deputy Administrator for designation of conservation priority areas. Such recommendations should contain clearly defined conservation and environmental objectives and analysis of how CRP can cost-effectively address such objectives. The purpose of the conservation priority area designation is to enhance the CRP by better addressing conservation and environmental issues in a planned and coordinated manner within a State. Generally, the total acreage of conservation priority areas, in aggregate, shall not total more than 10 percent of the cropland in a State unless there are identified and documented extraordinary environmental needs, as determined by Deputy Administrator.

(c) A region shall be eligible for designation as a priority area only if the region has actual significant adverse water quality or wildlife habitat impacts related to activities of agricultural production or if the designation

helps agricultural producers to comply with Federal and State environmental laws.

(d) Conservation priority area designations shall expire after 5 years unless redesignated, except they may be withdrawn:

(1) Upon application by the appropriate State water quality agency; or

(2) By the Deputy Administrator.

(e) In those areas designated as conservation priority areas, under this section, special emphasis will be placed on identified environmental concerns. These concerns may include water quality, such as assisting agricultural producers to comply with nonpoint source pollution requirements, air quality, or wildlife habitat (especially for currently listed threatened and endangered species or to prevent other species from becoming threatened and endangered), as determined by the Deputy Administrator.

### § 1410.9 Alley-cropping.

(a) Alley-cropping on CRP land may be permitted by CCC if:

(1) The land is planted to, or converted to, hardwood trees in accordance with § 1410.10;

(2) Agricultural commodities are planted in accordance with a prior, site-specific and NRCS approved conservation plan in close proximity to such hardwood trees; and

(3) The owner and operator of such land agree to implement appropriate conservation measures on such land.

(b) CCC may solicit bids for alley-cropping permission for CRP land. Annual rental payments for the term of any contract modified under this section shall be reduced by at least 50 percent of the original amount of the total rental payment in the original contract and, in the case of any contract modified to change from another cover crop, the total annual rental payments over the term of any such contract may not exceed the total annual rental payments specified in the original contract.

(c) The actual reduction in rental payment will be determined by CCC, based upon criteria, such as percentage of the total acreage that will be available for cropping and projected returns to the producer from such cropping.



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(d) The area available for cropping will be chosen according to the FOTG and will be farmed in accordance with an approved conservation plan so as to minimize erosion and degradation of water quality during those years when the areas are devoted to an agricultural commodity.

#### **§ 1410.10 Conversion to trees.**

An owner or operator who has entered into a contract prior to November 28, 1990, may elect to convert areas of highly erodible cropland, subject to such contract, which is devoted to permanent vegetative cover, from such cover to hardwood trees (including alley cropping and riparian buffers limited to hardwood trees where permitted by CCC), windbreaks, shelterbelts, or wildlife corridors.

(a) With respect to any contract modified under this section, the participant may elect to extend such contract in accordance with the provisions of § 1410.7(b).

(b) With respect to any contract modified under this section in which such areas are converted to windbreaks, shelterbelts, or wildlife corridors, the owner of such land must agree to maintain such plantings for a time period established by the Deputy Administrator.

(c) CCC shall, as it determines appropriate, pay up to 50 percent of the eligible cost of establishing new conservation measures authorized under this section, except that the total cost-share paid with respect to such contract, including cost-share assistance paid when the original cover was established, may not exceed the amount by which CCC would have paid had such land been originally devoted to such new conservation measures.

(d) With respect to any contract modified under this section, the participant must participate in the Forest Stewardship Program (16 U.S.C. 2103a).

#### **§ 1410.11 Restoration of wetlands.**

(a) An owner or operator who entered into a CRP contract on land that is suitable for restoration to wetlands or that was restored to wetlands while under such contract, may, if approved by CCC, subject to any restrictions as may be imposed by law, apply to trans-

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fer such eligible acres subject to such contract that are devoted to an approved cover from the CRP to the WRP. Transferred acreage shall be terminated from the CRP effective the day a WRP easement is filed. Participants will receive a prorated CRP annual payment for that part of the year the acreage was enrolled in the CRP according to § 1410.42. Refunds of cost-share payments or any applicable incentive payments need not be required unless specified by the Deputy Administrator.

(b) An owner or operator who has enrolled acreage in the CRP may, as determined and approved by CCC, restore suitable acres to wetlands with cost-share assistance provided that Federal cost-share assistance has not been previously provided specifically for wetland restoration on the proposed restoration site. In addition to the cost-share limitation in § 1410.41 of this part, an additional one time financial incentive may be provided to encourage restoration of the hydrology of the site.

#### **§ 1410.12 Farmable Wetlands Pilot Program**

(a) In addition to other allowable enrollments, land may be enrolled in this program through the Farmable Wetlands Pilot provided for in this section, except that:

(b)(1) This pilot program is authorized only in the States of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota;

(2) As determined by the Deputy Administrator, owners and operators in each of the States in paragraph (b)(1) of this section may enroll cropland that has been annually planted or considered planted to an agricultural commodity in 3 of the 10 most recent crop years, that:

(i) Is a wetland, including a converted wetland, as determined by NRCS or other technical authority, that does not exceed the size limitations of this section; and

(ii) Subject to other provisions of this section, is buffer acreage that provides protection for and is contiguous to the wetlands.

(3) An owner or operator may not enroll in this pilot program any wetland, or land in a flood plain, that:

(i) Is located adjacent to a perennial riverine system wetland as identified on the final national wetland inventory map of the Department of the Interior; or

(ii) Is located adjacent to a perennial stream identified on a 1-24,000 scale map of the United States Geological Service, when the area is not delineated on a final national wetland inventory map.

(4) Enrollment in the CRP under this pilot program must not exceed:

(i) 500,000 acres in all eligible States; and

(ii) 150,000 acres in any one State.

(5) The maximum size of any wetland described in paragraph (b)(2)(i) of this section shall be five contiguous acres.

(6) The maximum size of any buffer acreage described in paragraph (b)(2)(ii) of this section shall be the greater of:

(i) Three times the size of the wetland described in paragraph (b)(2)(i) of this section, or

(ii) 150 feet on either side of the wetland.

(7) The maximum total acreage enrolled in the CRP under this section, including any wetland and buffer acreage described in paragraph (b)(2)(ii) of this section, in a tract, as determined by the Deputy Administrator, of an owner or operator, is 40 acres.

(8) All participants subject to a CRP contract under this section must agree to restore the hydrology of the wetland described in paragraph (b)(2)(i) of this section to the maximum extent possible, as determined by the Deputy Administrator, in accordance with the FOTG.

(9) Offers for contracts under this section shall be submitted under continuous signup provisions as authorized in § 1410.30 of this part.

(10) Except as otherwise determined by the Deputy Administrator, all other requirements of this part shall apply to enrollments under this section and the Deputy Administrator by contract or otherwise may add such other requirements or conditions as are deemed needed or appropriate. Such additional limitations as apply include but are not limited to payment limitations and limitations on the amount of acreage that can be enrolled in any one county.

[66 FR 22099, May 2, 2001]

#### § 1410.13–§ 1410.19 [Reserved]

#### § 1410.20 Obligations of participant.

(a) All participants subject to a CRP contract must agree to:

(1) Carry out the terms and conditions of such CRP contract;

(2) Implement the conservation plan, which is part of such contract, in accordance with the schedule of dates included in such conservation plan unless the Deputy Administrator determines that the participant cannot fully implement the conservation plan for reasons beyond the participant's control and CCC agrees to a modified plan. However, a contract will not be terminated for failure to establish an approved vegetative or water cover on the land if as determined by the Deputy Administrator:

(i) The failure to plant or establish such cover was due to excessive rainfall or flooding;

(ii) The land subject to the contract on which the participant could practicably plant or establish to such cover is planted or established to such cover; and

(iii) The land on which the participant was unable to plant or establish such cover is planted or established to such cover after the wet conditions that prevented the planting or establishment subside.

(3) Establish temporary vegetative cover when required by the conservation plan or, as determined by the Deputy Administrator, if the permanent vegetative cover cannot be timely established;

(4)(i) A reduction in the aggregate total quotas and acreage allotments for the contract period for each farm which contains land subject to such CRP contract by an amount based upon the ratio between the acres in the CRP contract and the total cropland acreage on such farm. Quotas and acreage allotments reduced during the contract period shall be returned at the end of the contract period in the same amounts as would apply had the land not been enrolled in the CRP unless CCC approves, in accordance with the provisions of § 1410.34, an extension of such protection; and

(ii) reduce production flexibility contract acres enrolled under part 1412 of

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this chapter or CRP acres enrolled under this part so that the total of such acres does not exceed the total cropland on the farm;

(5) Comply with all requirements of part 12 of this title;

(6) Not allow grazing, harvesting, or other commercial use of any crop from the cropland subject to such contract except for those periods of time approved in accordance with instructions issued by the Deputy Administrator;

(7) Establish and maintain the required vegetative or water cover and the required practices on the land subject to such contract and take other actions that may be required by CCC to achieve the desired environmental benefits and to maintain the productive capability of the soil throughout the CRP contract period;

(8) Comply with noxious weed laws of the applicable State or local jurisdiction on such land;

(9) Control on land subject to such contract all weeds, insects, pests and other undesirable species to the extent necessary to ensure that the establishment and maintenance of the approved cover is adequately protected and to provide such maintenance as necessary, or may be specified in the CRP conservation plan, to avoid an adverse impact on surrounding land, taking into consideration water quality, wildlife, and other needs, as determined by the Deputy Administrator; and

(10) Be jointly and severally responsible, if the participant has a share of the payment greater than zero, with the other contract participants for compliance with such contract and the provisions of this part and for any refunds or payment adjustments which may be required for violations of any of the terms and conditions of the CRP contract and provisions of this part.

[62 FR 7625, Feb. 19, 1997, as amended at 65 FR 7953, Feb. 16, 2000; 67 FR 2132, Jan. 16, 2002]

### § 1410.21 Obligations of the Commodity Credit Corporation.

CCC shall, subject to the availability of funds:

(a) Share the cost with participants of establishing eligible practices specified in the conservation plan at the levels and rates of cost-sharing deter-

mined in accordance with the provisions of this part;

(b) Pay to the participant for a period of years not in excess of the contract period an annual rental payment in such amounts as may be specified in the CRP contract;

(c) Provide such technical assistance as may be necessary to assist the participant in carrying out the CRP contract; and

(d) Permit grazing on CRP land to the extent determined appropriate by the Deputy Administrator where the grazing is incidental to the gleaning of crop residues on fields where the contracted land is located. Such incidental gleaning shall be limited to the 7-month period in which grazing of conservation use acreage was previously allowed, as determined by CCC, in a State under the provisions of the Agricultural Act of 1949, as amended, or after the producer harvests the grain crop of the surrounding field. Further, CCC may provide approval of the incidental grazing of the CRP, but only in exchange for an applicable reduction in the annual rental payment, as determined appropriate by the Deputy Administrator.

(e) Provide approval of normal forestry maintenance such as pruning, thinning, and timber stand improvement on lands converted to forestry use only in accordance with a conservation plan in exchange for an applicable reduction in the annual rental payment as determined appropriate by the Deputy Administrator.

### § 1410.22 Conservation plan.

(a) The applicant shall develop and submit a conservation plan which is acceptable to NRCS and is approved by the conservation district for the land to be entered in the CRP. If the conservation district declines to review the conservation plan, such approval by the conservation district may be waived.

(b) The practices included in the conservation plan and agreed to by the participant must cost-effectively reduce erosion necessary to maintain the productive capability of the soil, improve water quality, protect wildlife or wetlands, protect a public well head, or

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achieve other environmental benefits as applicable.

(c) If applicable, a tree planting plan shall be developed and included in the conservation plan. Such tree planting plan may allow up to 3 years to complete plantings if 10 or more acres of hardwood trees are to be established.

(d) If applicable, the conservation plan shall address the goals included in the conservation priority designation authorized under § 1410.8 of this part.

(e) All conservation plans and revisions of such plans shall be subject to the approval of CCC and NRCS.

### § 1410.23 Eligible practices.

(a) Eligible practices are those practices specified in the conservation plan that meet all standards needed to cost-effectively:

(1) Establish permanent vegetative or water cover, including introduced or native species of grasses and legumes, forest trees, and permanent wildlife habitat;

(2) Meet other environmental benefits, as applicable, for the contract period; and

(3) Accomplish other purposes of the program.

(b) Water cover is eligible cover for purposes of paragraph (a) of this section only if approved by the Deputy Administrator for purposes such as the enhancement of wildlife or the improvement of water quality. Such water cover shall not include ponds for the purpose of watering livestock, irrigating crops, or raising for commercial purposes.

### §§ 1410.24-1410.29 [Reserved]

### § 1410.30 Signup.

Offers for contracts shall be submitted only during signup periods as announced periodically by the Deputy Administrator, except that CCC may hold a continuous signup for land to be devoted to particular uses, as CCC deems desirable.

### § 1410.31 Acceptability of offers.

(a) Except as provided in paragraph (c) of this section, producers may submit bids for the amounts they are willing to accept as rental payments to enroll their acreage in the CRP. The bids

shall, to the extent practicable, be evaluated on a competitive basis in which the bids selected will be those where the greatest environmental benefits relative to cost are generated, provided the bid is not in excess of the maximum acceptable payment rate established for the for the area offered by or for the Deputy Administrator.

(b) In evaluating contract offers, different factors, as determined by CCC, may be considered from time to time for priority purposes to accomplish the goals of the program. Such factors may include, but are not limited to:

(1) Soil erosion;

(2) Water quality (both surface and ground water);

(3) Wildlife benefits;

(4) Conservation priority area designations;

(5) Soil productivity;

(6) Conservation compliance considerations;

(7) Likelihood that enrolled land will remain in conserving uses beyond the contract period, which may be indicated by, for example, tree planting, permanent wildlife habitat, or commitments by a participant to a State or other entity to extend the conservation plan;

(8) Air quality; and

(9) Cost of enrolling acreage in the program.

(c) Acreage determined eligible for continuous signup, as provided in § 1410.30, shall be automatically accepted in the program if the:

(1) Land is eligible in accordance with the applicable provisions of § 1410.6, as determined by the Deputy Administrator;

(2) Applicant is eligible in accordance with the provisions of § 1410.5; and

(3) Applicant accepts either the maximum payment rate CCC is willing to offer to enroll the acreage in the program or a lesser rate.

### § 1410.32 CRP contract.

(a) In order to enroll land in the CRP, the participant must enter into a contract with CCC.

(b) The CRP contract will be comprised of:

(1) The terms and conditions for participation in the CRP;

(2) The conservation plan; and

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(3) Any other materials or agreements determined necessary by CCC.

(c)(1) In order to enter into a CRP contract, the applicant must submit an offer to participate as provided in § 1410.30;

(2) An offer to enroll land in the CRP shall be irrevocable for such period as is determined and announced by CCC. The applicant shall be liable to CCC for liquidated damages if the applicant revokes an offer during the period in which the offer is irrevocable as determined by the Deputy Administrator. CCC may waive payment of such liquidated damages if CCC determines that the assessment of such damages, in a particular case, is not in the best interest of CCC and the program.

(d) The CRP contract must, within the dates established by CCC, be signed by:

- (1) The applicant; and
- (2) The owners of the cropland to be placed in the CRP, if applicable.

(e) The Deputy Administrator is authorized to approve CRP contracts on behalf of CCC.

(f) CRP contracts may be terminated by CCC before the full term of the contract has expired if:

(1) The owner loses control of or transfers all or part of the acreage under contract and the new owner does not wish to continue the contract;

(2) The participant voluntarily requests in writing to terminate the contract and obtains the approval of CCC according to terms and conditions as determined by CCC;

(3) The participant is not in compliance with the terms and conditions of the contract;

(4) Acreage is enrolled in another State, Federal or local conservation program;

(5) The CRP practice fails after a certain time period, as determined by the Deputy Administrator, and the county committee determines the cost of restoring the practice outweighs the benefits received from the restoration;

(6) The CRP contract was approved based on erroneous eligibility determinations; or

(7) It is determined by CCC that such a release is needed in the public interest.

(g)(1) Contracts for land enrolled in CRP before January 1, 1995, which have been in effect for at least 5 years may be unilaterally terminated by all CRP participants on a contract except for contract acreage:

(i) Located within a width determined appropriate by the applicable FOTG of a perennial stream or other permanent waterbody to reduce pollution and to protect surface and sub-surface water quality;

(ii) On which a CRP easement is filed;

(iii) That is considered to be a wetland by NRCS;

(iv) Located within a wellhead protection area;

(v) That is subject to frequent flooding, as determined by the Deputy Administrator;

(vi) That may be required to serve as a wetland buffer according to the FOTG to protect the functions and values of a wetland; or

(vii) On which there exist one or more of the following practices, installed or developed as a result of participation in the CRP or as otherwise required by the conservation plan:

(A) Grass waterways;

(B) Filter strips;

(C) Shallow water areas for wildlife;

(D) Bottom land timber established on wetlands;

(E) Field windbreaks; and

(F) Shelterbelts.

(2) With respect to terminations under this paragraph:

(i) Any land for which an early termination is sought must have an EI of 15 or less;

(ii) The termination shall become effective 60 days from the date the participant submits notification to CCC of the participant's desire to terminate the contract;

(iii) Acreage terminated under this provision is eligible to be re-offered for CRP during future signup periods, provided that the acreage otherwise meets the current eligibility criteria; and

(iv) Participants shall be required to meet conservation compliance requirements of part 12 of this title to the extent applicable to other land.

(h) Except as allowed and approved by CCC where the new owner of land enrolled in CRP is a Federal agency that agrees to abide by the terms and

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conditions of the terminated contract, the participant in a contract that has been terminated must refund all or part of the payments made with respect to the contract plus interest thereon, as determined by CCC, and shall pay liquidated damages as provided for in the contract. CCC, in its discretion, may permit the amount to be repaid to be reduced to the extent that such a reduction will not impair the purposes of the program. Further, a refund of an annual rental and cost-share payment need not be required from a participant who is otherwise in full compliance with the CRP contract when the land is purchased by or for the United States, as determined by CCC.

### § 1410.33 Contract modifications.

(a) By mutual agreement between CCC and the participant, a CRP contract may be modified in order to:

- (1) Decrease acreage in the CRP;
- (2) Permit the production of an agricultural commodity under extraordinary circumstances during a crop year on all or part of the land subject to the CRP contract as determined by the Deputy Administrator;
- (3) Facilitate the practical administration of the CRP; or
- (4) Accomplish the goals and objectives of the CRP, as determined by the Deputy Administrator.

(b) CCC may modify CRP contracts to add, delete, or substitute practices when:

- (1) The installed practice failed to adequately provide for the desired environmental benefit through no fault of the participant; or
- (2) The installed measure deteriorated because of conditions beyond the control of the participant; and
- (3) Another practice will achieve at least the same level of environmental benefit.

(c) Offers to extend contracts may be made available to the extent otherwise allowed by law.

(d) CCC may terminate a CRP contract if the participant agrees to such termination and CCC determines such termination to be in the public interest.

### § 1410.34 Extended program protection.

(a) In the final year of the contract, participants may, subject to the terms and conditions announced by CCC request to extend the preservation of quota and acreage allotment history for 5 years (and, if announced by CCC, in successive 5-year increments). Such approval may be given by CCC only if the participant agrees to continue for that period, but without payment, to abide by the terms and conditions which applied to the relevant contract relating to the conservation of the property for the term in which payments were to be made.

(b) Where such an extension is approved, no additional cost-share, annual rental, or other payment shall be made.

(c) Haying and grazing of the acreage subject to such an extension may be permitted during the extension period, except during any consecutive 5-month period between April 1 and October 31 of any year as established by the State committee. In the event of a natural disaster, CCC may permit unlimited haying and grazing of such acreage.

(d) In the event of a violation of any CRP contract extended under this section, CCC may reduce or terminate, retroactively, prospectively, or both, the amount of quota, and acreage allotment history otherwise preserved under the extended contract.

### §§ 1410.35–1410.39 [Reserved]

### § 1410.40 Cost-share payments.

(a) Cost-share payments shall be made available upon a determination by CCC that an eligible practice, or an identifiable unit thereof, has been established in compliance with the appropriate standards and specifications.

(b) Except as otherwise provided for in this part, cost-share payments may be made under the CRP only for the cost-effective establishment or installation of an eligible practice.

(c) Except as provided in paragraph (d) of this section, cost-share payments shall not be made to the same owner or operator on the same acreage for any eligible practices which have been previously established, or for which such owner or operator has received cost-

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share assistance from any Federal agency.

(d) Except as provided for under §1410.10(c), cost-share payments may be authorized for the replacement or restoration of practices for which cost-share assistance has been previously allowed under the CRP, only if:

(1) Replacement or restoration of the practice is needed to achieve adequate erosion control, enhanced water quality, wildlife habitat, or increased protection of public wellheads; and

(2) The failure of the original practice was due to reasons beyond the control of the participant.

(e) The cost-share payment made to a participant shall not exceed the participant's actual contribution to the cost of establishing the practice and the amount of the cost-share may not be an amount which, when added to assistance from other sources, exceeds the cost of the practices.

(f) CCC shall not make cost-share payments with respect to a CRP contract if any other Federal cost-share assistance has been, or is being, made with respect to the establishment of the cover crop on land subject to such contract.

#### **§ 1410.41 Levels and rates for cost-share payments.**

(a) As determined by the Deputy Administrator, CCC shall not pay more than 50 percent of the actual or average cost of establishing eligible practices specified in the conservation plan, except that CCC may allow cost-share payments for maintenance costs to the extent required by §1410.40 and CCC may determine the period and amount of such cost-share payments.

(b) The average cost of performing a practice may be determined by CCC based on recommendations from the State Technical Committee. Such cost may be the average cost in a State, a county, or a part of a State or county, as determined by the Deputy Administrator.

(c) A one-time financial incentive, may be offered to participants who restore the hydrology of eligible wetlands in accordance with the provisions of §1410.11(b) or other lands as determined by the Deputy Administrator; such incentives will not be greater

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than 25 percent of the cost of restoring such wetlands or other lands, as determined by CCC.

(d) Except as otherwise provided, a participant may, in addition to any payment under this part, receive cost-share assistance, rental payments, or tax benefits from a State, subdivision of such State, or a private organization in return for enrolling lands in CRP. However, as provided under §1410.40(f) of this part, a participant may not receive or retain CRP cost-share assistance if other Federal cost-share assistance is provided for such acreage, as determined by the Deputy Administrator. Further, under no circumstances may the cost-share payments received under this part, or otherwise, exceed the cost of the practice, as determined by CCC.

#### **§ 1410.42 Annual rental payments.**

(a) Subject to the availability of funds, annual rental payments shall be made in such amount and in accordance with such time schedule as may be agreed upon and specified in the CRP contract.

(b) The annual rental payment shall be divided among the participants on a single contract in the manner agreed upon in such contract.

(c) The maximum amount of rental payments which a person may receive under the CRP for any fiscal year shall not exceed \$50,000. The regulations set forth at part 1400 of this chapter shall be applicable in making eligibility and "person" determinations as they apply to payment limitations under this part.

(d) In the case of a contract succession, annual rental payments shall be divided between the predecessor and the successor participants as agreed to among the participants and approved by CCC. If there is no agreement among the participants, annual rental payments shall be divided in such manner deemed appropriate by the Deputy Administrator and such distribution may be based on the actual days of ownership of the property.

(e) CCC shall, when appropriate, prepare a schedule for each county that shows the maximum soil rental rate

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CCC may pay which may be supplemented to reflect special contract requirements. As determined by the Deputy Administrator, such schedule will be calculated based on the relative productivity of soils within the county using NRCS data and local FSA average cash rental estimates. The schedule will be posted in the local FSA office. As determined by the Deputy Administrator, the schedule shall indicate, when appropriate, that:

(1) Contracts offered by producers who request rental payments greater than the schedule for their soil(s) will be rejected;

(2) Offers of contracts that are expected to provide especially high environmental benefits, as determined by the Deputy Administrator, may be accepted without further evaluation when the requested rental rate is less than or equal to the corresponding soil schedule; and

(3) Otherwise qualifying offers shall be ranked competitively based on factors established under §1410.31 of this part in order to provide the most cost-effective environmental benefits, as determined by the Deputy Administrator.

(f) Additional financial incentives may be provided to producers offering contracts expected to provide especially high environmental benefits through an increased annual rental payment or incentive payment as determined by the Deputy Administrator.

### § 1410.43 Method of payment.

Except as provided in §1410.50, payments made by CCC under this part may be made in cash or other methods of payment in accordance with part 1401 of this chapter, unless otherwise specified by CCC.

### §§ 1410.44–1410.49 [Reserved]

### § 1410.50 State enhancement program.

(a) For contracts to which a State, political subdivision, or agency thereof has succeeded in connection with an approved conservation reserve enhancement program, payments shall be made in the form of cash only. The provisions that limit the amount of payments per year that a person may receive under this part shall not be applicable to payments received by such

State, political subdivision, or agency thereof in connection with agreements entered into under such enhancement programs carried out by such State, political subdivision, or agency thereof which has been approved for that purpose by CCC.

(b) CCC may enter into other agreements in accordance with terms deemed appropriate by CCC, with States to use the CRP to cost-effectively further specific conservation and environmental objectives of that State and the nation.

### § 1410.51 Transfer of land.

(a)(1) If a new owner or operator purchases or obtains the right and interest in, or right to occupancy of, the land subject to a CRP contract, as determined by the Deputy Administrator, such new owner or operator, upon the approval of CCC, may become a participant to a new CRP contract with CCC with respect to such transferred land.

(2) With respect to the transferred land, if the new owner or operator becomes a successor to the existing CRP contract, the new owner or operator shall assume all obligations under the CRP contract of the previous participant.

(3) If the new owner or operator becomes a successor to a CRP contract with CCC, then, except as otherwise determined appropriate by the Deputy Administrator:

(i) Cost-share payments shall be made to the participant, past or present, who established the practice; and

(ii) Annual rental payments to be paid during the fiscal year when the land was transferred shall be divided between the new participant and the previous participant in the manner specified in §1410.42.

(b) If a participant transfers all or part of the right and interest in, or right to occupancy of, land subject to a CRP contract and the new owner or operator does not become a successor to such contract within 60 days of such transfer, such contract shall be terminated with respect to the affected portion of such land and the original participant:



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(1) Must forfeit all rights to any future payments with respect to such acreage;

(2) Shall comply with the provisions of § 1410.32(h); and

(3) Refund all previous payments received under the contract by the participant or prior participants, plus interest, except as otherwise specified by the Deputy Administrator.

(c) Federal agencies acquiring property, by foreclosure or otherwise, that contains CRP contract acreage cannot be a party to the contract by succession. However, through an addendum to the CRP contract, if the current operator of the property is one of the participants on such contract, such operator may, as permitted by CCC, continue to receive payments provided for in such contract so long as:

(1) The property is maintained in accordance with the terms of the contract;

(2) Such operator continues to be the operator of the property; and

(3) Ownership of the property remains with such federal agency.

## § 1410.52 Violations.

(a)(1) If a participant fails to carry out the terms and conditions of a CRP contract, CCC may terminate the CRP contract.

(2) If the CRP contract is terminated by CCC in accordance with this paragraph:

(i) The participant shall forfeit all rights to further payments under such contract and refund all payments previously received together with interest; and

(ii) Pay liquidated damages to CCC in such amount as specified in such contract.

(b) If the Deputy Administrator determines such failure does not warrant termination of such contract, the Deputy Administrator may authorize relief as the Deputy Administrator deems appropriate.

(c) CCC may reduce a demand for a refund under this section to the extent CCC determines that such relief would be appropriate and will not deter the accomplishment of the goals of the program.

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### § 1410.53 Executed CRP contract not in conformity with regulations.

If, after a CRP contract is approved by CCC, it is discovered that such CRP contract is not in conformity with the provisions of this part, the provisions of the regulations shall prevail.

### § 1410.54 Performance based upon advice or action of the Department.

(a) The provisions of § 718.8 of this title relating to performance based upon the action or advice of a representative of the Department shall be applicable to this part, and may be considered as a basis to provide relief to persons subject to sanctions under this part to the extent that relief is not mandated by the other provisions of this section.

(b) Further, except as provided in paragraph (b) (3) of this section, and notwithstanding any other provision of this chapter, the Deputy Administrator may provide equitable relief to a participant who has entered into a contract under this chapter, and who is subsequently determined to be in violation of the contract, if the participant, in attempting to comply with the terms of the contract and enrollment requirements, took actions in good faith reliance upon the action or advice of an authorized USDA representative, as determined by the Deputy Administrator, provided:

(1) The Deputy Administrator determines that a participant has been injured by such good faith reliance, in which case, the participant may be authorized, as determined appropriate by the Deputy Administrator, to do any one or more of the following;

(i) Retain payments received under the contract;

(ii) Continue to receive payments under the contract;

(iii) Keep all or part of the land covered by the contract enrolled in the applicable program under this chapter;

(iv) Re-enroll all or part of the land covered by the contract in the applicable program under this chapter; or

(v) Any other equitable relief the Deputy Administrator deems appropriate.

(2) If relief under this section is authorized by the Deputy Administrator, the participant must take such actions

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as are determined by the Deputy Administrator to remedy any failure to comply with the contract.

(3) This section shall not apply to a pattern of conduct, as determined by the Deputy Administrator, in which an authorized USDA representative takes actions or provides advice with respect to a participant that the representative and the participant both know, or should have known, are inconsistent with applicable law (including regulations).

(4) Relief under this paragraph shall be available only for contracts in effect on January 1, 2000, or thereafter.

[67 FR 2132, Jan. 16, 2002]

### **§ 1410.55 Access to land under contract.**

(a) Any representative of the Department, or designee thereof, shall be provided by the applicant or participant as the case may be, with access to land which is:

(1) The subject of an application for a contract under this part; or

(2) Under contract or otherwise subject to this part.

(b) With respect to such land identified in paragraph (a) of this section, the participant or applicant shall provide such representatives with access to examine records with respect to such land for the purpose of determining land classification and erosion rates and for the purpose of determining whether there is compliance with the terms and conditions of the CRP contract.

### **§ 1410.56 Division of program payments and provisions relating to tenants and sharecroppers.**

(a) Payments received under this part shall be divided in the manner specified in the applicable contract or agreement and CCC shall ensure that producers who would have an interest in acreage being offered receive treatment which CCC deems to be equitable, as determined by the Deputy Administrator. CCC may refuse to enter into a contract when there is a disagreement among persons seeking enrollment as to a person's eligibility to participate in the contract as a tenant and there is insufficient evidence to indicate whether the person seeking participa-

tion as a tenant does or does not have an interest in the acreage offered for enrollment in the CRP.

(b) CCC may remove an operator or tenant from a CRP contract when the operator or tenant:

(1) Requests, in writing to be removed from the CRP contract;

(2) Files for bankruptcy and the trustee or debtor in possession fails to affirm the contract, to the extent permitted by the provisions of applicable bankruptcy laws;

(3) Dies during the contract period and the Administrator of the estate fails to succeed to the contract within a period of time determined by the Deputy Administrator; or

(4) Is the subject of an order of a court of competent jurisdiction requiring the removal from the CRP contract of the operator or tenant and such order is received by FSA, as determined by the Deputy Administrator.

(c) In addition to the provisions in paragraph (b) of this section, tenants shall maintain their tenancy throughout the contract period in order to remain on a contract. Tenants who fail to maintain tenancy on the acreage under contract, including failure to comply with provisions under applicable State law, may be removed from a contract by CCC. CCC shall assume the tenancy is being maintained unless notified otherwise by a CRP participant specified in the applicable contract.

### **§ 1410.57 Payments not subject to claims.**

Subject to part 1403 of this chapter, any cost-share or annual payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any creditor, except agencies of the United States Government.

### **§ 1410.58 Assignments.**

Any participant who may be entitled to any cash payment under this program may assign the right to receive such cash payments, in whole or in part, as provided in part 1404 of this chapter.

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### **§ 1410.59 Appeals.**

(a) Except as provided in paragraph (b) of this section, a participant or person seeking participation may appeal or request reconsideration of an adverse determination rendered with regard to such participation in accordance with the administrative appeal regulations at parts 11 and 780 of this title.

(b) Determinations by NRCS concerning land classification, erosion rates, water quality ratings or other technical determinations may be appealed in accordance with procedures established under part 614 of this title or otherwise established by NRCS.

### **§ 1410.60 Scheme or device.**

(a) If it is determined by CCC that a person has employed a scheme or device to defeat the purposes of this part, any part of any program payment otherwise due or paid such person during the applicable period may be required to be refunded with interest thereon as determined appropriate by CCC.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person of cost-share assistance or annual rental payments, or obtaining a payment that otherwise would not be payable.

(c) A new owner or operator or tenant of land subject to this part who succeeds to the responsibilities under this part shall report in writing to CCC any interest of any kind in the land subject to this part that is retained by a previous participant. Such interest shall include a present, future, or conditional interest, reversionary interest, or any option, future or present, with respect to such land, and any interest of any lender in such land where the lender has, will, or can obtain, a right of occupancy to such land or an interest in the equity in such land other than an interest in the appreciation in the value of such land occurring after the loan was made. Failure to fully disclose such interest shall be considered a scheme or device under this section.

### **§ 1410.61 Filing of false claims.**

If it is determined by CCC that any participant has knowingly supplied false information or has knowingly

filed a false claim, such participant shall be ineligible for payments under this part with respect to the program year in which the false information or claim was filed and the contract may be terminated in which case a full refund of all prior payments may be demanded. False information or false claims include, but are not limited to, claims for payment for practices which do not meet the specifications of the applicable conservation plan. Any amounts paid under these circumstances shall be refunded, together with interest as determined by CCC, and any amounts otherwise due such participant shall be withheld. The remedies provided for in this section shall be in addition to any and all other remedies, criminal and/or civil that may apply.

### **§ 1410.62 Miscellaneous.**

(a) Except as otherwise provided in this part, in the case of death, incompetency, or disappearance of any participant, any payment due under this part shall be paid to the participant's successor in accordance with the provisions of part 707 of this title.

(b) Unless otherwise specified in this part, payments under this part shall be subject to the requirements of part 12 of this title concerning highly-erodible land and wetland conservation and payments that otherwise could be made under this part may be withheld to the extent provided for in part 12 of this title.

(c) Any remedies permitted CCC under this part shall be in addition to any other remedy, including, but not limited to criminal remedies, or actions for damages in favor of CCC, or the United States, as may be permitted by law; provided further the Deputy Administrator may add to the contract such additional terms as needed to enforce these regulations which shall be binding on the parties and may be enforced to the same degree as provisions of these regulations.

(d) Absent a scheme or device to defeat the purpose of the program, when an owner loses control of CRP acreage due to foreclosure and the new owner chooses not to continue the contract in accordance with §1410.51, refunds shall not be required from any participant

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on the contract to the extent that the Deputy Administrator determines that forgiving such repayment is appropriate in order to provide fair and equitable treatment.

(e) Crop insurance purchase requirements in part 1405 of this chapter apply to contracts executed in accordance with this part.

(f) Land enrolled in CRP shall be classified as cropland for the time period enrolled in CRP and, after the time period of enrollment, may be removed from such classification upon a determination by the county committee that such land no longer meets the conditions identified in part 718 of this title.

(g) Research projects may be submitted by the State committee and authorized by the Deputy Administrator to further the purposes of CRP. The research projects must include objectives that are consistent with this part, provide economic and environmental information not adversely affect local agricultural markets, and be conducted and monitored by a bona fide research entity.

(h) CCC may enter into other agreements, as approved by the Deputy Administrator, to use the CRP to meet authorized wetland mitigation banking pilot projects.

### § 1410.63 Permissive uses.

Unless otherwise specified by the Deputy Administrator, no crops of any kind may be planted or harvested from designated CRP acreage during the contract period.

### § 1410.64 Paperwork Reduction Act assigned numbers.

The Office of Management and Budget has approved the information collection requirements contained in these regulations under provisions 44 U.S.C. Chapter 35 and OMB number 0560-0125 has been assigned.

## PART 1411—OILSEEDS PROGRAM

### Subpart A—General Provisions

Sec.

- 1411.101 Applicability.
- 1411.102 Administration.
- 1411.103 Definitions.
- 1411.104 Misinformation and misaction.

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### Subpart B—Eligibility Determinations

- 1411.201 Eligible producers.
- 1411.202 Violations, misrepresentation, or scheme or device.
- 1411.203 Payment amount.
- 1411.204 Payment acreage.
- 1411.205 Payment yield.

### Subpart C—Application for Payment

- 1411.301 Signup period.
- 1411.302 Submitting application.
- 1411.303 Late-filed acreage reports.

### Subpart D—Miscellaneous

- 1411.401 Limitation of payments.
- 1411.402 Offsets and assignments; powers of attorney.

AUTHORITY: Sec. 202, Pub. L. 106-224.

SOURCE: 65 FR 36561, June 8, 2000, unless otherwise noted.

## Subpart A—General Provisions

### § 1411.101 Applicability.

This part implements the oilseed provisions enacted in section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106-224), which provides funds to allow for payments to producers who planted eligible oilseeds in 2000 and who meet other conditions of eligibility.

[65 FR 65714, Nov. 2, 2000]

### § 1411.102 Administration.

(a) This part shall be administered by CCC through the Farm Service Agency Deputy Administrator for Farm Programs under the general direction and supervision of the Executive Vice President, CCC. The program shall be carried out in the field by State and county committees of the Farm Service Agency of the U.S. Department of Agriculture.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

(c) The State committee shall take any action required by this part that has not been taken by the county committee. The State committee shall also: